

November 10, 2004
IMMEDIATE RELEASE

THIS IS NOT AN OFFICIAL STATEMENT
OF THE COURT, BUT IS SOLELY FOR
THE CONVENIENCE OF THE PRESS.

IN THE SUPREME COURT OF THE STATE OF IDAHO
DOCKET NO. 29803

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	Boise, September 2004 Term
)	
v.)	2004 Opinion No. 117
)	
BENJAMIN ARLO JONES,)	Filed: November 10, 2004
)	
Defendant-Appellant.)	Frederick C. Lyon, Clerk
)	
)	

Appeal from the District Court of the Seventh Judicial District, State of Idaho, Bonneville County. Hon. Jon J. Shindurling, District Judge.

Judgment of conviction and sentence for injury to children, affirmed.

Molly J. Huskey, State Appellate Public Defender, Boise, for appellant.
Justin M. Curtis, Deputy State Appellate Public Defender, argued.

Hon. Lawrence G. Wasden, Attorney General, Boise, for respondent.
Kenneth K. Jorgensen, Deputy Attorney General, argued.

In a unanimous opinion authored by Justice Burdick, the Idaho Supreme Court affirmed the district court's judgment of conviction and sentence of Benjamin Arlo Jones.

Jones was charged by information with four counts of felony injury to a child pursuant to Idaho Code section 18-1501(1). The charging document filed against him omitted an element of the crime, but did name the applicable code section under which he was charged. Jones pleaded guilty to one count of felony injury to a child in exchange for the dismissal of the three other felony counts. Jones failed to object to the language of the charging document filed against him before entering his guilty plea. At sentencing, the district court imposed a penalty greater than that recommended by the prosecution.

Jones appealed his judgment of conviction, arguing the charging document filed against him omitted a material element of the offense of injury to a child, and therefore the district court did not have jurisdiction over him when it imposed its sentence. Jones also asked this Court to determine if the sentence imposed by the district court was excessive and an abuse of discretion.

The Idaho Supreme Court holds that when an objection to a charging document is not made until after the entry of judgment, if the applicable code section is named in the charging document its language may be read into the text of the charge. Because Jones committed his offense within the State of Idaho and the reference to Idaho Code section 18-1501(1) in the charging document conveyed to Jones the missing elements of the charge, there was no jurisdictional error. The Idaho Supreme Court further found the sentence imposed by the district court was reasonable and not an abuse of discretion. Accordingly, the district court's judgment of conviction and sentence was affirmed.